

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 7-25-07 *DA.*

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF DENTISTRY

LICENSED TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Dentistry (" Board") upon the application of John J. Fitzpatrick, D.M.D. ("respondent"), seeking to return to practice following the voluntary surrender of his license on August 9, 2006. Respondent appeared before the Board on that date and agreed to the surrender in lieu of testifying regarding allegations of drug use, including his circumstances underlying arrest for Unlawful Possession of a Controlled Dangerous Substance in violation of N.J.S.A. 2C:35-10a(1) and Possession of Drug Paraphernalia in violation of N.J.S.A. 2C:36-2 on June 16, 2005. Respondent received, and has since completed, Pre-Trial Intervention on those charges. The Board's continuing investigation revealed respondent had prescribed controlled dangerous substances and prescription legend

drugs to his live-in partner and her adult daughter. The Consent Order of Voluntary Surrender of Licensure ordered respondent to participate with the Professional Assistance Program.

On June 20, 2007, respondent appeared before the Board with Edward Reading, Ph.D., L.C.A.D.C., from the Professional Assistance Program. Respondent testified that he has made significant progress in his recovery from substance abuse. He has been attending AA/NA meetings and complying with recommendations of the Professional Assistance Program. In addition, respondent expressed remorse for his actions. He testified that his indiscriminate prescribing was related to his own substance abuse and he acknowledged that he should not have written prescriptions for legend drugs or controlled dangerous substances for non-dental purposes.

Having reviewed the entire record, including the testimony of respondent at his appearance before the Board, it appears to the Board that Dr. Fitzpatrick may return to the practice of dentistry consistent with the public health, safety, and welfare with the restrictions and monitoring requirements set forth in this order. Dr. Fitzpatrick has demonstrated sobriety for more than ten months and appears to be doing well in recovery at this time. The Board, however, is keenly aware of respondent's history of relapse into abuse of controlled dangerous substances, and therefore any deviation from the terms of this order will result in immediate suspension of license.

IT IS ON THIS ^{25th} DAY OF *July*, 2007

HEREBY ORDERED AND AGREED THAT:

1. The license of John J. Fitzpatrick to practice dentistry is hereby reinstated subject to the restrictions in this order.
2. Respondent's hours of clinical practice shall not exceed twenty (20) hours of practice per week, and not in excess of three (3) days per week, until further order of the Board.

3. Respondent shall only be permitted to write prescriptions for patients as required in connection with dental treatment or administer medication to patients in the course of dental treatment, in accordance with the following terms and conditions:

(a) Respondent shall not prescribe or dispense controlled dangerous substances.

(b) Respondent shall use sequentially numbered, triplicate prescription pads for all prescriptions written.

(c) Respondent shall provide the original prescription to the patient, attach one copy of the prescription to the patient record, and submit the third copy to the Board, attention Executive Director, on a monthly basis. For purposes of this order, the first month commences on August 1, 2007. However, the first submission shall be due no later than September 1, 2007, for all prescriptions written in July and August starting on the entry date of this order.

(d) Respondent shall be required to account for each consecutively numbered prescription, regardless of whether the particular prescription was voided or not used for any purpose whatsoever.

4. At all times when he is engaged in the practice of clinical dentistry, respondent shall have a licensed or registered dental auxiliary present in the office to assist him.

(a) The dental auxiliary shall be a licensed dental hygienist or a registered dental assistant holding a valid license or registration issued by the State Board of Dentistry.

(b) The auxiliary shall agree to report to the Board any conduct or observations that indicate that respondent may be impaired, may be using controlled dangerous substances or writing prescriptions for a non dental purpose.

(c) Respondent shall provide a copy of this and any further orders of the Board to the auxiliary and shall ensure that the auxiliary initials the patient's chart indicating that

she or he was present in the office at the time treatment was rendered. Respondent shall ensure that the auxiliary signs a copy of the order, which respondent shall submit to the Board.

5. Respondent, upon notification by the Board, shall provide to a Board approved dentist five patient charts chosen at random. That dentist shall review the charts and provide a report to the Board concerning respondent's treatment.

6. Respondent shall complete a course in pharmacology provided by Dr. William Vilensky within six (6) months of the entry of the within Consent Order. Proof of completion shall be sent to the Board within 30 days of completion.

7. Respondent shall abstain from the use of any and all intoxicating substances, including but not limited to alcohol, as well as any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Professional Assistance Program and the Board together with patient records indicating the need for such medication. Such report shall be provided no later than two (2) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

8. (a) Respondent shall submit to random urine screens at a minimum of twice per week for the first six months of licensure reinstatement with reductions thereafter to be consistent with his duration in recovery but not less frequent than once a week for the subsequent six months. The urine screen monitoring program, as well as the laboratory facility conducting the urine testing must be approved by the Board. The Board shall provide respondent and the PAP with specific directions for the protocol of the testing procedure. All urine screens must be directly observed and respondent shall comply with all additional urine screen procedures and protocols outlined and prescribed by the Board. The urine screen

requirement shall continue until further order of the Board expressly reducing or discontinuing testing. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests shall be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(b) All test results shall be provided to the executive director of the Board, or his designee in the event he is unavailable. The Board retains sole discretion to modify the manner and the extent of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c) Any failure by respondent to submit or provide a urine screen within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the Professional Assistance Program. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the PAP with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that she was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d) In the event respondent will be out of the State for any reason, the PAP shall be so advised so that arrangements may be made at the Board's discretion for alternate testing.

(e) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall be deemed dilute and a presumption of a confirmed positive urine test shall arise requiring a confirming test by hair analysis or other appropriate means.

(f) Respondent shall familiarize himself with all foods, food additives, or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

(g) The Professional Assistance Program shall provide the results of all urine tests to the Board on a quarterly basis. The Professional Assistance Program shall report any positive urine test to the Board within 48 hours of receiving the results of the test.. The Professional Assistance Program shall also report any other information indicating that respondent has failed to comply with any terms of this order. Such notification shall be made in writing within 48 hours of discovering the non-compliant conduct.

9. Respondent shall attend Alcoholics Anonymous and/or Narcotics Anonymous not less than three times per week. Respondent shall provide evidence of attendance at AA/NA directly to the PAP. If respondent has discontinued attendance at AA/NA without obtaining approval of the Board, he shall be deemed in violation of this order.

10. Respondent shall have face-to-face follow-up with a clinical representative of the Professional Assistance Program as directed by the Executive Medical Director of the Professional Assistance Program. Respondent shall also follow all recommendations of the Professional Assistance Program.

11. Respondent shall personally provide the Board with quarterly reports concerning his compliance with the aftercare plan that has been established and his compliance with the Board's Order of Reinstatement. For purposes of this order, the first quarter commences on August 1, 2007. However, the first submitted report from respondent shall be due no later than September 30, 2007, for issues related to his compliance with the aftercare plan and compliance with reinstatement.

12. Respondent may seek modification of the terms of this order not sooner than one (1) year from date of its entry. Prior to any modification or removal of restrictions set forth in this order respondent shall:

(a) Appear before the Board or a committee of the Board to discuss his recovery and to demonstrate to the satisfaction of the Board that he is not suffering from any impairment or limitation resulting from the use of any mood altering substance, whether legal or illegal, which could affect his practice.

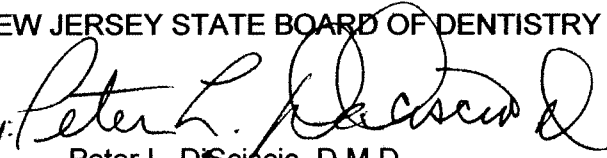
(b) Prior to his appearance, respondent shall provide the Board with reports from each and every health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who have participated in respondent's care and/or treatment for the disability in this matter during the period of time from his entry into treatment to his appearance.

13. Respondent shall be subject to an order of automatic suspension of his license upon the Board's receipt of any information that the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this consent order, including but not limited to report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of alcohol or drug abuse. Respondent shall have the right to apply for removal of the automatic suspension on five

(5) days notice, but in the case of urine testing, shall be limited to a showing that the urine tested was not his or was a false positive, or that other information was false.

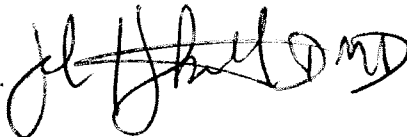
NEW JERSEY STATE BOARD OF DENTISTRY

By:


Peter L. DiSciscio, D.M.D.
Board President

I have read and understand this Consent Order
and agree to be bound by its terms. I consent to the
entry of this Order.

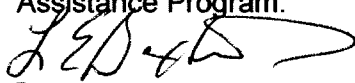
John J. Fitzpatrick, D.M.D.



Date

02/24/07

I have read the terms of this consent order and agree
on behalf of the Professional Assistance Program to
comply with its terms as pertaining to the Professional
Assistance Program.

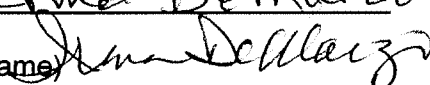


Louis E. Baxter, M.D.

Date

7/25/07

I have read this consent order and agree to comply with
the terms of paragraph 4 concerning the duties of an auxiliary.

Irma Demarzo
(Print name) 

Date

7/24/07

Barbara Wolf RDH
Barbara Wolf

DATE

7/24/07